

**SENATE . . . . . No. 1825****The Commonwealth of Massachusetts**

PRESENTED BY:

**James E. Timilty***To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts in General Court assembled:*

The undersigned legislators and/or citizens respectfully petition for the passage of the accompanying bill:

**An Act clarifying ambiguities relative to Question 2.**

PETITION OF:

NAME:	DISTRICT/ADDRESS:
James E. Timilty	Bristol and Norfolk
Scott P. Brown	Norfolk, Bristol and Middlesex
Michael O. Moore	Second Worcester
Richard T. Moore	Worcester and Norfolk
George N. Peterson, Jr.	9th Worcester
William N. Brownsberger	24th Middlesex
Stephen M. Brewer	Worcester, Hampden, Hampshire and Franklin
Michael R. Knapik	Second Hampden and Hampshire
Paul K. Frost	7th Worcester
Cheryl A. Coakley-Rivera	10th Hampden
William C. Galvin	6th Norfolk
Angelo J. Puppola, Jr.	12th Hampden
Jennifer L. Flanagan	Worcester and Middlesex
Geraldo Alicea	6th Worcester
Susan Williams Gifford	2nd Plymouth
James Dwyer	30th Middlesex
Michael Brady	9th Plymouth
Anne M. Gobi	5th Worcester
Harold P. Naughton, Jr.	12th Worcester

Patricia A. Haddad

5th Bristol

Richard J. Ross

9th Norfolk

# The Commonwealth of Massachusetts

In the Year Two Thousand and Nine

## AN ACT CLARIFYING AMBIGUITIES RELATIVE TO QUESTION 2.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

SECTION 1. The definition of “tetrahydrocannabinol” in Section 1 of Chapter 94C as appearing in the Official 2004 Edition is hereby amended by striking out the following words:-

“except when it has been established that the concentration of delta-9 tetrahydrocannabinol in said marihuana exceeds two and one-half per cent”

SECTION 2. Section 32L of Chapter 94C is hereby amended by inserting after the first sentence the following new sentence:-

“Nothing contained in this Section or any other law will alter or restrict police officers from conducting searches based on probable cause that marihuana or tetrahydrocannabinol is present in a motor vehicle, in a container, or on a person.”

SECTION 3. Section 32L of Chapter 94C is hereby amended by inserting at the end of the first sentence after the word “marihuana” the following:-

“Except that a licensing authority considering an application for a license to carry a firearm may consider an applicant’s history of vehicle operation or other criminal or dangerous conduct while under the influence of any controlled substance, as well as such person’s drug use or possession,

including but not limited to the personal use, sale, distribution or possession of any amount of marihuana or tetrahydrocannabinol, in determining such person's suitability to carry a firearm."

SECTION 4. Section 32L of Chapter 94C is hereby amended by inserting in the last sentence after the word, "Commonwealth" the following:-

"or any governmental employer from adopting, modifying and enforcing a drug testing policy or from promulgating a restriction or making employment and licensing decisions affecting applicants or employees based on the use or possession of marihuana or tetrahydrocannabinol, or from"

SECTION 5. Section 32L of Chapter 94C is hereby amended by inserting after the last paragraph the following new paragraph:-

"Any person in possession of a identification card, license or other form of identification issued by the Commonwealth or any state, city or town, or any college or university, who fails to produce the same upon request of a police officer who informs the person that he or she has been found in possession of what appears to the officer to be an ounce or less of marihuana or tetrahydrocannabinol, or any person without any of such forms of identification that fails or refuses to truthfully provide his or her name, address, and date of birth to a police officer who has informed such person that the officer intends to provide such individual with a citation for possession of an ounce or less of marihuana or tetrahydrocannabinol may be arrested."

SECTION 6. Section 32N of Chapter 94C is hereby amended by inserting after the last paragraph the following new paragraph:-

35 “At a hearing held before a clerk-magistrate or assistant clerk-magistrate concerning a citation  
36 issued for possession of marihuana or tetrahydrocannabinol, since this is a non-criminal  
37 proceeding, a standard of a preponderance of the evidence, not proof beyond a reasonable doubt,  
38 will apply. The officer issuing the citation need not appear in person at such hearing, so long as a  
39 copy of the police report is provided to the alleged offender.”

40 SECTION 7. Section 34 of Chapter 94C is hereby amended by inserting in line 15 after  
41 the words “more than one ounce of marihuana” the following:-

42 “or any amount of marihuana in the case of a person who fails to pay the civil penalty of one  
43 hundred dollars prescribed in section 32L,”

44 SECTION 8. Section 41 of Chapter 94C is hereby amended by adding the following  
45 paragraph:-

46 d. any person who fails or refuses to truthfully provide his or her name, address, and  
47 date of birth to a police officer who has informed such person that the officer intends to issue  
48 such individual a citation for possession of one ounce or less of marihuana or  
49 tetrahydrocannabinol.